

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested. Claims 1-6 and 8-33 are now pending, wherein claims 1, 2, 8, 11, 23, 24 and 30 are amended and claim 7 is canceled.

Claims 1-8, 11, 13, 22 and 30-33 are rejected under 35 U.S.C. § 102(e) for anticipation by U.S. Patent Application Publication No. 2003/0135573 to Taylor ("Taylor"). This ground of rejection is respectfully traversed.

Claim 1 is amended to include elements of claim 7. Accordingly, claim 1 now recites that historical data for the destination host is stored. Claim 1 is also amended to recite that the determination that stateless routing is to be employed for the *incoming data* is based on the stored historical data for the destination host associated with the *incoming data*. Claim 1 is further amended to recite that the "the stored historical data is independent of the incoming data." These features are not disclosed by Taylor.

Taylor discloses a technique for transferring messages in which at least some bytes of a message are stored in a non-volatile storage device and the remaining bytes are stored in a memory.¹ When a particular message is not received by one of the destinations ("No" path out of decision step 312), then the complete message is stored in a non-volatile storage device for these destinations

¹ Paragraph 0027 and steps 303-306 of Figure 3A.

(steps 315 and 316).² Thus, in Taylor the decision of whether to store a message in non-volatile memory is based on whether *that particular message* was successfully received. In contrast, the method of Applicants' claim 1 uses historical data that is *independent of the incoming data* to determine whether to employ stateless routing of *the incoming data*. In other words, Taylor at most discloses determining how to route a particular message based on data related to that message, whereas the method Applicants' claim 1 determines how to route a particular message based on data related to other messages. Thus, Taylor does not anticipate Applicants' claim 1.

Moreover, the method of Applicants' claim 1 determines that stateless routing is to be employed based on the historical data. In contrast, Taylor at most discloses determining that *stateful routing should be performed* based on whether the particular message was successfully received.

Because Taylor does not disclose all of the elements of claim 1, Taylor does not anticipate this claim. Claim 30 is amended to recite similar elements to those discussed above with regard to claim 1, and is not anticipated by Taylor for similar reasons. Claims 2-6, 8, 11, 13, 22 and 31-33 are patentably distinguishable over Taylor at least by virtue of their dependency. Accordingly, the rejection of claims 1-8, 11, 13, 22 and 30-33 for anticipation by Taylor should be withdrawn.

² Figure 3B.

Claims 20, 21, 23-25 and 29 are rejected under 35 U.S.C. § 103(a) for obviousness in view of the combination of Taylor and Patent No. 6,483,834 to Salisbury ("Salisbury"). This ground of rejection is respectfully traversed.

The combination of Taylor and Salisbury does not render claim 23 obvious because the combination does not disclose or suggest "determining that stateless routing of the message is to be employed based on the historical data and the control data."

The Office Action relies upon the counting of the number of bytes of Taylor as corresponding to the historical data, and states that the control data is inherent in Taylor. First, as discussed above, Taylor employs information about whether a particular message has been successfully transmitted to determine whether to store the particular message in non-volatile memory. Thus, Taylor does not disclose or suggest using historical data for the determination that stateless routing is to be employed.

Second, Taylor at most discloses using the number of bytes of a message and whether a message has been successfully transmitted. Taylor does not disclose or suggest that the inherent control data is used for determining that stateless routing is to be employed.

Finally, as discussed above with regard to claim 1, Taylor at most discloses determining that stateful routing should be employed. In contrast,

claim 23 recites determining that *stateless routing is to be employed* based on historical and control data.

Salisbury is cited for other elements of claim 23, but does not remedy the above-identified deficiencies of Taylor. Accordingly, the combination of Taylor and Salisbury does not render claim 23 obvious.

Claims 20, 21, 24, 25 and 29 are patentably distinguishable at least by virtue of their dependency. Accordingly, the rejection of claims 20, 21, 23-25 and 29 for obviousness should be withdrawn.

Claims 9, 10, 18 and 19 are rejected under 35 U.S.C. § 103(a) for obviousness in view of the combination of Taylor and U.S. Patent No. 7,194,535 to Hannel et al. ("Hannel"). Claim 12 is rejected under 35 U.S.C. § 103(a) for obviousness in view of the combination of Taylor and U.S. Patent No. 6,721,315 to Xiong et al. ("Xiong"). Claims 14 and 15 are rejected under 35 U.S.C. § 103(a) for obviousness in view of the combination of Taylor and U.S. Patent Application Publication No. 2003/0074413 to Nielsen et al. ("Nielsen"). Claims 16 and 17 are rejected under 35 U.S.C. § 103(a) for obviousness in view of the combination of Taylor and U.S. Patent No. 3,870,828 to Saliga ("Saliga"). Claim 26 is rejected under 35 U.S.C. § 103(a) for obviousness in view of the combination of Taylor, Salisbury and Nielsen. Claim 27 is rejected under 35 U.S.C. § 103(a) for obviousness in view of the combination of Taylor and Salisbury and Saliga. Claim 28 is rejected under 35 U.S.C. § 103(a) for obviousness in view of the

combination of Taylor and Salisbury and Hannel. These grounds of rejection are respectfully traversed.

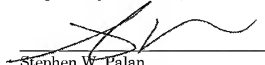
Claims 9, 10, 12, 14-19 and 26-28 variously depend from independent claims 1, 23 and 30. Accordingly, these claims are patentably distinguishable over the current grounds of rejection at least by virtue of their dependency.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #101610.55983US).

Respectfully submitted,

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